

Remarks/Arguments

Applicants have carefully reviewed the Office Action dated August 22, 2007. Applicants have amended Claims 1-9 to more clearly point out the present inventive concept. Reconsideration and favorable action is respectfully requested.

35 U.S.C. § 112 Rejection

Claim 1 is rejected under 35 U.S.C. § 112 as being indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. This rejection is respectfully traversed. Claims 1-9 have been amended to clearly indicate that what is claimed is a product comprising a bar code and visual indicia. Reconsideration and withdrawal of the 35 U.S.C. § 112 rejection is respectfully requested.

In light of the amendment and traversal of this rejection, if the Examiner considers the arguments to be persuasive, then the Examiner is respectfully requested to indicate so in the next Office communication that the previous rejection under 35 U.S.C. § 112, second paragraph, has been withdrawn and provide an explanation as to what prompted the change in the examiner's position. Alternatively, if the arguments are not found persuasive, the Examiner is respectfully requested to specifically reject the appropriate claim, using the word "reject," and clearly and fully state the grounds of each such rejection.

35 U.S.C. § 101 Rejection

Claim 1 is rejected under 35 U.S.C. § 101 rejection because the claimed invention is directed to non-statutory subject matter. This rejection is respectfully traversed. Claims 1-9 have been amended to reflect that "a product having information disposed thereon" is claimed. The claims as presently presented are properly directed to statutory subject matter. Reconsideration and withdrawal of this rejection is respectfully requested.

Further, MPEP 2107.01 states:

To avoid confusion, any rejection that is imposed on the basis of 35 U.S.C. 101 should be accompanied by a rejection based on 35 U.S.C. 112, first paragraph. The 35 U.S.C. 112, first paragraph, rejection should be set out as a separate rejection that incorporates by reference the factual basis and conclusions set forth in the 35 U.S.C. 101 rejection.

Although the Office Action, mailed August 22, 2007, contained no 35 U.S.C. § 112, first paragraph rejection, Claims 1-9, as presently presented, are properly supported in the specification such that the a written description of the invention, and of the manner and process of making and using it, are contained in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same, and shall set forth the best mode contemplated by the inventor of carrying out his invention. In light of the amendment, if the Examiner considers the arguments to be persuasive, then the Examiner is respectfully requested to withhold, in the next Office communication, a rejection under 35 U.S.C. § 112, first paragraph. Alternatively, if the arguments are not found persuasive, the Examiner is respectfully requested to specifically reject the appropriate claim, using the word “reject,” and clearly and fully state the grounds of each such rejection.

35 U.S.C. § 103(a) Rejections

Claims 1-9 are rejected under 35 U.S.C. § 103(a) as being unpatentable over Perkowski (USP 6,064,979) in view of Wilz, Sr. et al. (USP 6,394,354). This rejection is respectfully traversed. Applicants’ Appeal Brief, submitted May 2, 2007, argues the 35 U.S.C. § 103(a) rejection based on the combination of *Perkowski* (patent no. 6,064,979) and *Wilz* (patent no. 6,394,354); however, the following also rebuts these rejections. Reconsideration and withdrawal of the 35 U.S.C. § 103(a) rejections are respectfully requested.

Independent Claim 1 recites, *inter alia*, a product having information disposed thereon for facilitating computer based access of a network by a consumer. The product comprises a machine readable code disposed on a surface of the product. The machine readable code has information encoded therein that is related to the product. The product is provided by the product manufacturer. The machine readable code is physically associated with the product itself, but has no routing information contained therein that would allow a user to access any

location on a network. The machine readable code further has a relationship to the product or service unrelated to routing information. The machine readable code is a part of a relational database that associates the machine readable code with a defined location on the network and the relational database that is associated with a routing system that facilitates connection to the remote location on the network.

Neither *Perkowski* nor *Wilz* discloses at least the aforementioned features of independent Claim 1. Contrary to the Examiner's statement, the primary citation to *Perkowski* does not disclose the visual indicia disposed on the surface in a predetermined proximate visual orientation to the machine readable code, such that the machine readable code and the visual indicia together form and define a composite visual appearance. Accordingly, without conceding the propriety of the asserted combination, the asserted combination of *Perkowski* and *Wilz* is likewise deficient, even in view of the knowledge of one of ordinary skill in the art.

The primary citation to *Perkowski* relates to an interface to a user that allows that user to search information regarding either a product having an associated UPC or UPN or information regarding products associated with the trademark. (see *Perkowski*, beginning at column 18, line 55). The Office Action contends that the trademark symbol that is printed on the product meets the aforementioned feature of independent Claim 1. (Office Action, pages 4 and 5). This contention is respectfully traversed.

Perkowski, at column 18, line 55 – column 20, line 3, expressly teaches that the user can search for product information, with or without the product in front of them, by entering the UPC, UPN or trademark information. Thus, *Perkowski* cannot reasonably be interpreted to disclose the aforementioned feature of a *machine readable code and a visual indicia that together form a defined composite visual appearance, indicative of a relationship between the machine readable code and the presence of a location on a network that will use the routing system for connection to the remote location*, as recited by independent Claim 1.

The secondary citation to *Wilz* relates to a web indicia embedded within the bar code and in proximity thereto, i.e., the user can scan it or type in the ASCII characters. It is cited for its alleged disclosure of a URL encoded bar code symbol printed above a Web-site URL which

indicates that scanning of the URL encoded bar code symbol will cause computer-based access of the Web-site URL. (See Office Action, page 6). The addition of this alleged disclosure in *Wilz* does not cure the deficiency in *Perkowski* of a *machine readable code and a visual indicia that together form a defined composite visual appearance, indicative of a relationship between the machine readable code and the presence of a location on a network that will use the routing system for connection to the remote location.*

Additionally, independent Claim 1 recites that the product comprises a visual indicia that has no apparent relationship to the machine readable code or to the defined location disposed on said surface in a predetermined proximate visual orientation to said machine readable code. The visual indicia is associated only with the routing system and not with the product manufacturer. The machine readable code and the visual indicia together form a defined composite visual appearance, indicative of a relationship between said machine readable code and the presence of a location on a network that will use the routing system for connection to the remote location. Such location on the network can be accessed by a computer having an appropriate input device for reading said machine readable code. Reading of said machine readable code by said input device will cause the routing system to connect the computer to the remote location. Wherein the visual indicia indicates only that scanning of the machine readable code will cause computer-based access of the network by the routing system.

Neither *Perkowski* nor *Wilz* discloses at least the aforementioned feature of independent Claim 1. In particular, it is submitted that the secondary citation to *Wilz* does not remedy the conceded deficiency in the primary citation to *Perkowski*. Accordingly, without conceding the propriety of the asserted combination, the asserted combination of *Perkowski* and *Wilz* is likewise deficient, even in view of the knowledge of one of ordinary skill in the art.

The Office Action concedes that the primary citation to *Perkowski* does not teach the visual indicia associated with the routing system and indicative that scanning of the machine readable code will cause computer based access of the network. (See Office Action, page 6). Nonetheless, the Office Action rejects independent Claim 1, contending that the secondary citation to *Wilz* provides this necessary disclosure. (See Office Action, page 6). This contention is respectfully traversed.

Wilz relates to a web indicia embedded within the bar code and in proximity thereto, i.e., the user can scan it or type in the ASCII characters. As such, *Wilz* teaches that the information in the bar code and the ASCII code (URL) are identical. Thus, *Wilz* does not provide a disclosure that remedies the aforementioned deficiency of the visual indicia having no apparent relationship to the machine readable code or to the defined location. Accordingly, favorable reconsideration and withdrawal of the rejection of independent Claim 1 under 35 U.S.C. § 103 are respectfully requested.

As indicated above, independent Claim 1 is believed to be allowable. Claims 2-9 depend from, and further limit, independent Claim 1. Therefore, Claims 2-9 are also allowable. Further, the Examiner offers official notice that is unsupported by documentary evidence. Applicants' silence regarding the assertion of "Official Notice" should not be presumed to be acquiescence to the Examiner's assertion. Reconsideration and withdrawal of the rejections directed to Claims 2-9 is respectfully requested.

Applicants have now made an earnest attempt in order to place this case in condition for allowance. For the reasons stated above, Applicants respectfully request full allowance of the claims as amended. Please charge any additional fees or deficiencies in fees or credit any overpayment to Deposit Account No. 20-0780/PHLY-24,740 of HOWISON & ARNOTT, L.L.P.

Respectfully submitted,
HOWISON & ARNOTT, L.L.P.
Attorneys for Applicant

/Gregory M. Howison Reg. #30646/
Gregory M. Howison
Registration No. 30,646

GMH/mep/mgr/sjg

P.O. Box 741715
Dallas, Texas 75374-1715
Tel: 972-479-0462
Fax: 972-479-0464
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